IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 7342 of 2007(Y)

PETITIONER:

ELSY VARGHESE, AGED 66 YEARS,
POOCHANAT HOUSE, BEHIND B.P.PUMP,
TRIPUNITHURA.

BY ADV. SMT.SADHANA KUMARI ESWARI
SMT.GISA SUSAN THOMAS

RESPONDENTS:

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1. THE TRIPUNITHURA MUNICIPALITY,
OFFICE AT STATUE JUNCTION,
TRIPUNITHURA, REPRESENTED THROUGH ITS
SECRETARY.

2. THE BHARAT PETROLEUM CORPORATION
LIMITED, HAVING ITS OFFICE AT IRUMPANAM,
REPRESENTED THROUGH ITS MANAGER.

ADDL. R3 IMPLEADED.

3. THE DEPUTY CONTROLLER OF EXPLOSIVES,
ERNAKULAM SUB CIRCLE OFFICE,
E.S.I. ROAD, ERNAKULAM.

ADDL. R3 IS IMPLEADED AS PER ORDER DATED 13.3.2007 IN I.A.3836/07.

R1 BY ADV. SRI.V.M.KURIAN
R3 SRI. P. PARAMESWARAN NAIR, ASSISTANT SG
R2 BY SR. ADV. SRI. N.N. SUGUNAPALAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No.7342 of 2007

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Dated this the 1st day of June, 2007

JUDGMENT

Case of the petitioner is as follows:

Petitioner is a retired teacher living with her family in a building bearing No.1083 in Ward No.13 of Tripunithura Municipality. The petrol pump of the second respondent was in St.Mary's Jacobite Church compound since 1958 and its storage tank was lying underground at about 40-50 metres from the petitioner's property. It is her case that on 23.1.2007 it was found that a pit was being dug about two metres from the petitioner's compound wall. On enquiry it was understood that the underground storage tank was being shifted to that pit. Petitioner objected and preferred Ext.P1 representation before the first respondent Municipality and handed over copy to the second respondent. According to the petitioner she found that her property is absent in the plan approved by the first respondent. She objects to the placing of the petrol pump near the residential house.

2. Counter affidavits are filed by respondents 1 and 2.

Respondent No.1 in the counter affidavit inter alia states that on the basis of the complaint of the petitioner alleging change of location of storage tank, notice was issued to the second respondent as Ext.R1(c). Ext.R1(a) is the building permit issued and Ext.R1(b) is the certificate from the Divisional Officer, Fire and Rescue Services with regard to the proposed construction.

3. In the counter affidavit of the second respondent they have produced Ext.R2(a) to Ext.R2(d). Ext.R2(a) is the letter issued by the second respondent seeking no objection. Ext.R2(b) is the communication from the Pollution Control Board. By Ext.R2(c) the second respondent had requested the Pollution Control Board to issue NOC at the earliest. Ext.R2(d) is a letter issued by the second respondent to the first respondent, in which it is stated that they were enclosing the copy of the alleged no objection certificate.

4. Heard counsel for the parties.

Learned counsel appearing on behalf of the Municipality would submit that the Municipality will take action on Ext.P1 complaint after hearing the petitioner and the second respondent. Learned counsel for

the third respondent submits that the third respondent has given consent.

A decision will be taken on Ext.P1 complaint by the first respondent within a period of six weeks from the date of receipt of a copy of this judgment after hearing as undertaken by respondent No.1. It is submitted by the Senior Counsel appearing on behalf of the second respondent that the second respondent has already moved application under Rule 143 of the Building Rules seeking regularisation. A decision will be taken on the same also after hearing the petitioner and the second respondent within the said period.

(K.M. JOSEPH, JUDGE)

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